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**July 9, 2003**

Ms. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

**Re: Docket No. 94-102**

Dear Ms. Dortch:

3G Americas,<sup>1</sup> whose members are noted below, urges the Commission to reject the transparent commercial arguments recently made by Qualcomm's officials which, if adopted, would violate the FCC's policy of technology neutrality.

Specifically, as confirmed in June 19 and July 8 Ex Parte letters from Qualcomm's counsel, Qualcomm's representatives recently visited various 8<sup>th</sup> floor officials to urge that the Commission require TDMA and analog wireless operators to embrace Qualcomm's CDMA technology in order to comply with the Commission's E911 Rules.

Despite the fact that the Commission has a reasoned waiver policy in place for E911 compliance, Qualcomm's representatives apparently argued that the public interest would be advanced if the Commission rejected valid waiver requests from analog and TDMA wireless operators, and instead, required these operators to use Qualcomm's technology when addressing E911 requirements.

In its June 19 and July 8 Ex Parte letters, Qualcomm asserts that recent migrations by major wireless carriers away from analog and TDMA may serve as an impetus for rural carriers to adopt a similar migration strategy. In this regard, in an unabashed commercial effort, Qualcomm urges the Commission to deny legitimate E911 waiver applications from rural carriers who should, in Qualcomm's view, "convert to the CDMA

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<sup>1</sup> AT&T; Cable & Wireless; Cingular Wireless; Ericsson, Hewlett Packard; Lucent Technologies; Motorola; Nokia; Nortel Networks; Openwave Systems; Research in Motion; Rogers Wireless, Inc. Siemens Information; T-Mobile, USA, Inc.; Telcel Radiomovil and Telecom Personal SA.

air interface and implement Assisted-GPS as their E911 solution.” While ignoring the fact that compliant location technologies other than A-GPS have been demonstrated on non-CDMA systems<sup>2</sup>, Qualcomm, in effect, is suggesting that the Commission take on the defacto role of a “commercial agent” for Qualcomm’s technology when addressing E911 waiver requests from wireless operators throughout the United States.

Notwithstanding Qualcomm’s misguided efforts as detailed in their June 19 and July 8 Ex Parte letters, 3G Americas believes that rural wireless carriers should continue to enjoy the unfettered freedom to select the most appropriate technology for their business model and E911 compliance needs. The Commission long ago moved away from mandating specific technologies or system designs, and instead has correctly focused on specifying performance-based objectives that can then be met through a variety of technology approaches. This broad-based federal policy of technology neutrality and flexibility has promoted fierce competition in the wireless marketplace, and has led to important consumer benefits, including lower prices and an ever-increasing variety of applications and services—a trend that will continue as long as such policies are maintained.

3G Americas applauds the Commission for its steadfast adherence to the policy of technology neutrality and urges the FCC to reject any suggestion that the Commission embrace one wireless standard over another.

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Michael R. Gardner  
Washington Counsel for 3G Americas

cc: John B. Muleta, Chief, Wireless Telecommunications Bureau  
Bryan Tramont, Senior Legal Advisor to Chairman Powell  
Jennifer Manner, Senior Counsel to Commissioner Abernathy  
Paul Margie, Legal Advisor to Commissioner Copps  
Samuel Feder, Legal Advisor to Commissioner Martin  
Barry Ohlson, Legal Advisor to Commissioner Adelstein

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<sup>2</sup> In particular, Qualcomm’s concern that GSM carriers may encounter “technical issues” in implementing network-based E-911 solutions appears to be misplaced. Such solutions have already been successfully demonstrated to comply with the Commission’s Phase II accuracy requirements. See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, CC Docket No. 94-102, AT&T Wireless Services, Inc. Update to Interim Report (filed July 2, 2003).